

Abstract. Moreover, a search of the records at the USPTO shows that *Kesling* is assigned to "XM Satellite Radio." *Kesling* also specifically states that the satellite digital audio receiver 20 "may be handheld." Para. 0036. The Inno also has a user interface (Ref. page. 16) similar to that described in *Kesling* in Fig. 5 (Paras. 0046-0047) illustrating the pertinent information for the song. Thus, the Pioneer Inno described in the User Guide is similar to the type of satellite receiver described by *Kesling*.

The Patent Office has maintained that *Kesling* enables a "purchase request" from a user pressing the button 1220 of the receiver 20. In rebuttal of that argument, Applicant previously submitted the Declaration of Dr. Walter E. Thain, Jr., an independent expert in the field of wireless communications, which details the steps necessary to complete an electronic purchase transaction by pressing the button 1220 of *Kesling* (Dec. Para. 5), and summarized in Dec. Para. 15: "pressing button 1220 does not enable a complete purchase transaction in the system described by *Kesling*, as is suggested by the Patent Office." The User Guide shows that Dr. Thain is correct; a back end purchasing system must be added to a device such as one specified in *Kesling* in order to complete a purchase transaction.

The User Guide illustrates that "Playlist" of the Inno (Ref. page 41), is only a temporary storage of the song, and that to purchase and download the stored song, the Inno must be connected to a PC and Napster must be used to complete the purchase and download the song. Ref. page 55. This is quite similar to an embodiment described in the present application where the receiver of the present application can complete the purchase transaction through later connection to a PC. Specification, para. 0020. The User Guide clearly illustrates that the stand-alone satellite receiver of *Kesling* must have further modification in order to complete a purchase transaction, in direct support of this assertion by Dr. Thain, and the receiver in *Kesling* therefore is not enabled for a "purchase request" as asserted by the Patent Office.

In order to maintain the rejection of the claims under 35 U.S.C. §102(e), *Kesling*, must disclose all elements thereof (MPEP §2141), and because *Kesling, et al.*, does not at least disclose the element of the "purchase request" in independent Claims 1, 9 and 12, which is likewise in Claims 2-8, 10-13, and 15-19 as dependent thereupon, as the

Declaration of Thain and evidence demonstrate, this ground of rejection cannot stand and Applicant hereby requests allowance of Claims 1-13 and 15-19.

In regard to the pending rejection of Claim 14 under 35 U.S.C. §103(a), which is dependent from independent Claim 12, as argued above, *Kesling* does not have the element of a purchase request originating at the broadcast receiver, and Applicant submits that the suggested modification of *Kesling, et al.*, with an Official Notice of secure communication protocol does not disclose this element. In order to render obvious the presently claimed invention, the suggested combination must disclose all elements of the rejected claims. MPEP §2143. As the suggested combination fails to disclose at least the element of the broadcast receiver receiving a purchase request, the Applicant respectfully submits that Claim 14, as dependent on independent Claim 12, cannot be rendered obvious by the suggested combination and allowance thereof is respectfully requested.

Conclusion

In view of the foregoing remarks and evidence, Applicant respectfully submits that Claims 1-19 are in condition for allowance and notification to that effect is earnestly solicited. If necessary, the Examiner is invited to telephone Applicant's attorney (404-815-3380) to facilitate prosecution of this application.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested to Deposit Account No. 03-0683.

Respectfully submitted,

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By his Representatives,



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Date 11 July 2006

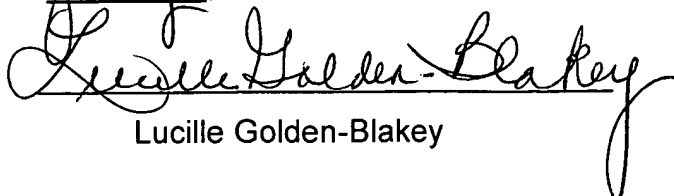
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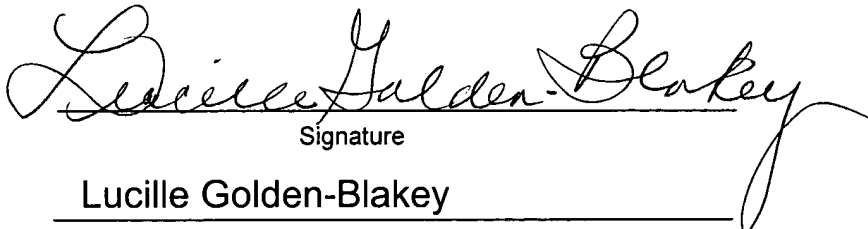
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